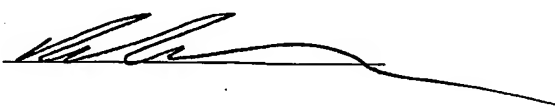


CERTIFICATE OF TRANSMISSION PURSUANT TO 37 CFR § 1.8

I hereby certify pursuant to 37 CFR §1.8 that this correspondence is being transmitted via EFS to the United States Patent and Trademark Office on the date shown below.

Date 10/14/08

Signature 

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Gregory M. Podsakoff et al.

Serial No.: 10/092,454

Filed: March 5, 2002

Patent No. 7,238,674

Grant Date: July 3, 2007

Title: METHODS FOR DELIVERING DNA TO MUSCLE CELLS USING
RECOMBINANT ADENO-ASSOCIATED VIRUS VECTORS

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR §1.182

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

11/06/2008 GARIAS 00000010 7238674

01 FC:1464
02 FC:1811

130.00 OP
100.00 OP

Sir:

This Request for Reconsideration of Petition under 37 CFR §1.182 is being filed in response to the Decision on Petition mailed September 26, 2008 ("the Decision") in the above-referenced application. The Office dismissed applicant's Petition under 37 CFR. §1.182, filed July 18, 2008 ("the Petition"). However, Patentee submits the Office's dismissal of the Petition was in error.

Statement of Facts

Applicants submitted a corrected Terminal Disclaimer (appended) and Petition under 37 C.F.R. §1.182 on July 18, 2008 in order to correct typographical errors in the Terminal Disclaimer originally filed on December 18, 2003 (appended). The original Terminal Disclaimer was submitted in order to disclaim term over U.S. Patent Nos. 5,858,351; 6,325,998; 5,846,528; and 6,335,011. All of these patents are listed in paragraph 4 of the original Terminal Disclaimer. However, paragraph 6 of the original Terminal Disclaimer contained typographical errors. In particular, paragraph 6 listed U.S. Application No. 10/092,454 (the application that matured into

Adjustment date: 11/06/2008 GARIAS
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the instant patent) but did not list the patent numbers referred to above. Despite this inadvertent error, the Patent Office accepted the Terminal Disclaimer.

The Patent Office dismissed the Petition filed July 18, 2008, stating: "Once a patent issues, the USPTO will not remove the effect of a recorded terminal disclaimer." However, both the original and corrected Terminal Disclaimers listed the same patents in paragraph 4. The corrected Terminal Disclaimer merely corrected the error in paragraph 6. Thus, patentee submits the corrected Terminal Disclaimer does not remove the effect of the recorded Terminal Disclaimer as all of the same patents are listed in both documents.


Additionally, the corrected Terminal Disclaimer names the current assignee in paragraph 2 as Genzyme Corporation. Avigen, Inc., listed as the assignee in paragraph 2 of the original Terminal Disclaimer, assigned all rights in the instant patent, as well as all the patents listed in the Terminal Disclaimer, to Genzyme Corporation by way of an assignment recorded with the United States Patent and Trademark Office on September 13, 2006 at Reel 018239, Frame 0292.

Since the corrected Terminal Disclaimer disclaims term over all of the same patents as the original Terminal Disclaimer, a favorable ruling on the Petition is requested.

The Commissioner is hereby authorized to charge to Deposit Account No. 18-1648 any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper.

Respectfully submitted,

Date: 10/14/08

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